

**REAL PROPERTY APPRAISER BOARD
MAIN LEVEL, ROOM “Y”
NEBRASKA STATE OFFICE BUILDING
301 CENTENNIAL MALL SOUTH, LINCOLN, NE**

15 July 2010

OPENING

Chairman Gregg Mitchell called to order the July 15, 2010 meeting of the Nebraska Real Property Appraiser Board at 9:01 a.m., in Room “Y” on the main level of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

NOTICE OF MEETING

Chairman Mitchell announced the notice of the meeting was duly given, posted, published and tendered in compliance with the Open Meetings Act, and all Board members received notice simultaneously by e-mail. Publication of official notice of the meeting appeared in the July 12th, 2010 edition of the *Lincoln Journal Star*, a legal newspaper of general circulation in this State, as required by the public meeting law. The agenda was kept current in the Nebraska Real Property Appraiser Board Office and on the Board’s website. Materials generally used by the Board for this meeting were available in the public folder for inspection by the public and in accordance with the Open Meetings Act. A copy of the Open Meetings Act was available for the duration of the meeting. For the record, Board Members Bradford Moore, Matthew ‘Joe’ Wilson, Philip Barkley, David Hartman, and R. Gregg Mitchell were present. Director Kitty Policky was also present.

ADOPTION OF THE AGENDA

Chairman Mitchell reminded those present for the meeting that the Agenda cannot be altered 24 hours prior to the meeting except for emergency items according to the Open Meetings Act. Vice Chair Moore moved to adopt the Agenda as printed. Board Member Wilson seconded the motion. With no further discussion, the motion carried with Moore, Wilson, Barkley, Hartman, and Mitchell voting aye

WELCOME GUESTS

Chairman Mitchell welcomed the guests to the meeting and asked that they please sign the guest log.

APPROVAL OF THE MINUTES FROM JUNE 17, 2010

Vice Chairman Moore asked for any additions or corrections to the June 17, 2010 minutes. With no additions or corrections, Vice Chairman Moore moved to adopt the minutes as presented. Board Member Barkley seconded the motion. With no further discussion the motion carried with Wilson, Barkley, Hartman, Moore, and Mitchell voting aye.

CHAIRMAN’S REPORT

Mr. Raffety has requested an executive session to discuss enforcement actions. In the consideration of time in regard to Mr. Raffety, Chairman Mitchell requested a motion for the Board will go into executive session unless there is an objection. Vice Chair Moore moved that the Board go into executive session for the purpose of discussion for disciplinary action. A closed session is clearly necessary to prevent needless injury to the reputation of the individual or individuals relating to the issues of alleged violations of performance in real property appraisal practice. The time on the meeting clock was 9:05 a.m. Board Member Wilson seconded the motion. With no further discussion the motion carried with Barkley, Hartman, Moore, Wilson, and Mitchell voting aye.

Vice Chair Moore moved to come out of executive session at 9:34 a.m. Board Member Wilson seconded the motion. The motion carried with Harman, Moore, Wilson, Barkley, and Mitchell voting aye.

Chairman Mitchell discussed an electronic communication asking how the EPA's new Lead Paint Renovation, Repair and Painting Rule (RRP), which took effect on April 22nd, will affect the market values of pre-1978 homes. The RRP is for the most part a containment, cleanup and disposal requirement. Contractor certification and the extra time and record keeping requirements, along with the testing requirements, will obviously increase any expenses related to repairs and in turn will elevate the cost to homeowners. The Board does not have an opinion on the new EPA RRP rule at this time.

DIRECTOR'S REPORT

Director Policky reported the number of appraisers for June 2010 stands as follows: 119 Registered/Conversion; 105 Licensed Residential; 211 Certified Residential; and 384 Certified General for a total of 819 or an increase of eight appraisers from the June meeting and 25 less than the total for June 2010 of 844 appraisers. The renewal process came to an end on June 30th.

Materials contain the FY2010-11 Planned Transfer Schedule by Agency/Fund. The information represents a cash fund to general fund from Agency 53 for 12/15/2010 in an amount of 7,279.50 and again June 15, 2011 in the same amount of 7,279.50. This is part of LB959e. Withdrawal of funds from cash by LB 1 of the 2009 Special Session represents a total of \$106,400.00 from Agency 53.

Director Policky distributed the 10-11 Budget Status Report that will be entered into the accounting system to include the PSL encumbrance as well as carryover. Board members discussed the versatility of the Budget Status Report in adjusting the allocations. Director Policky emphasized that the PSL could not be adjusted. PSL cannot be increased or decreased but the remaining budget has versatility. The projections are simply based on the history of expenditures but the allocation for each account code can be adjusted.

Delivered to the Appraiser Board office just prior to the Thursday meeting of the Board were the approved, stamped copies of the rules and regulations which were reviewed for statutory and constitutionality by the Attorney General's office. The approved copies will be prepared as required and forwarded to the Governor's Policy Research Office for review and signature. The rules and regulation process will be completed with the Governor's signature and will be effective ten days from the day they are signed.

Director Policky closed the report by thanking the Board for their service and assistance.

RECEIPTS AND EXPENDITURES REPORT – JUNE 2010

The receipts and expenditures for June were reviewed by the Director by line item with the Board. A total of \$48,695.94 in expenditures is very large but reflects the cost for legal representation and hearing expenses. \$11,989.57 in receivables is reported. Director Policky explained that Account #493200, Operating Transfers Out, reflects the monies appropriated from the cash fund of the Appraiser Board under the guidelines of LB1 adopted 2009 in the amount of \$17,720.50. Although the Budget Status Report reflects this transaction, a separate General Ledger Post report has been included. A copy of the Budget Status Report, the General Ledger Detail Report and Receipt Journal for June are attached and considered part of these minutes. Vice Chair Moore moved to accept and file the June 2010 Receipts and Expenditures report for audit. Board Member Barkley

seconded the motion. With no further discussion the motion carried with Moore, Wilson, Barkley, Hartman, and Mitchell voting aye.

Board took a break at 10:04 a.m.

Board meeting reconvened at 10:15 a.m.

UNFINISHED BUSINESS

1. Inactivate Credential.

Director Policky presented to the Board the revised proposed guidelines to inactivate a credential and activate a credential. The proposed policy was introduced at the May meeting with a request to return the item to the June meeting and again to the July meeting. The proposed guidelines included the forms to apply to inactivate a credential as well as the proposed form to activate a credential. Board members reviewed the changes and additions to the proposed policy. Board Member Wilson proposed adopting the policy and forms as revised to inactivate and activate a credential. The documents are attached and considered part of these minutes. Vice Chairman Moore seconded the motion. With no further discussion the motion carried with Wilson, Barkley, Hartman, Moore, and Mitchell voting aye.

2. Staggered Credential Proposal

Director Policky presented to the Board proposed guidelines as amended to implement a renewal process to allow a credential to pay renewal fees for a two-year period instead of the annual renewal fee based on the continuing education period requirements. The Board requested that the requirement for the 7-hour USPAP Update course must be met and submitted to the Real Property Appraiser Board office even if the credential is on inactive status. The amended guidelines read as follows:

STAGGERED CREDENTIALING PROPOSAL

Adopted 6/17/2010

Revised & Adopted 7/15/2010

The process of renewal for some credentials can become a biannual instead of an annual process. The biannual process of renewal will be determined according to the two-year continuing education cycle. Appraisers whose continuing education period is 2009-2010 will have the opportunity to renew for a two-year period or for the 2011-2012 continuing education period. The biannual renewal period will be effective from January 1, 2011 to December 31, 2012.

Appraisers whose continuing education period is 2010-2011 will be renewed for a one-year period until they complete the two-year continuing education requirement cycle. At such time, the renewal period will become a biannual period of 2012-2013.

All credentials eligible for biannual renewal include Appraiser Trainee, Licensed Residential, Certified Residential, and Certified General. Registered appraisers will renew on an annual basis until three renewals, beginning with 2008, have been completed or three years from the year you were initially credentialed. The Registered credential is terminated at the end of the three renewal periods on December 31st.

Biannual renewal periods will apply to all reciprocal appraisers although no proof of education is required under the statutory obligation of NEB. REV. STAT. 76-2236. Rates

apply to reciprocal credentials respectively. The two year cycle is determined by the year you were initially credentialed.

Biannual renewal is not a requirement. Government agencies with limited funding can renew on an annual basis as well as individual appraisers. The pocket card will indicate the expiration date as well as the amount paid to assist in reminding the appraiser whether the renewal was an annual or biannual period.

Regardless of which renewal period you are eligible to select and which renewal period you elect to select, the annual or biannual renewal, the USPAP Update course must be completed in the year required and submitted to the Real Property Appraiser Board office. Should a paid biannual credential fail to complete the USPAP Update by December 31st of the year it is due, the credential will be inactivated and the Appraisal Subcommittee will be notified of the inactive status of the credential. The inactive status will not permit an appraiser to perform any appraisal or valuation service requiring a credential until the USPAP Update course has been completed.

The renewal fee will be billed appropriately on the form.

Board members felt the guidelines adequately addressed considerations for all credentials. Although our renewal process will be based on the annual rate because the Registered and Appraiser Trainee credential are not eligible for two year processing, the remaining credentials can be renewed on a two year rate if they are at the end of an education cycle. The issuance of a pocket card effective for two years may make the obligations to financial institutions as well as insurance carriers more convenient. The effective dates for the pocket cards were adjusted in LB931 by recognizing the designated year to address the need for an annual as well as a two year expiration date. Although adjustments may have to be visited to complete the transition, Board Member Barkley proposed a motion to approve the amended guidelines for staggered credentialing as presented. Vice Chairman Moore seconded the motion. With no further discussion the motion carried with Barkley, Hartman, Moore, Wilson, and Mitchell voting aye.

NEW BUSINESS

1. Level 1 & Level 2 Investigator Training

Adam Turek from the Appraisal Foundation forwarded a notice to request two attendees from Nebraska for the “Level 2” training session. The Appraisal Foundation and the Association of Appraiser Regulatory Officials (AARO) formed a partnership to offer training to state appraiser investigators and regulators with a goal to promote greater nationwide consistency in evaluation and investigation of the complaint process. The designated attendees must have attended the “Level 1” session. The cost for the attendees is paid by the Appraisal Foundation and lodging and meals are reimbursed by the Appraisal Foundation. Board Member Hartman proposed that Vice Chairman Moore and Board Member Wilson attend the “Level 2” training. Board Member Barkley seconded the motion. With no further discussion the motion carried with Hartman, Moore, Wilson, Barkley, and Mitchell voting aye.

Director Policky proposed that Danny Stoeber, past Board member as well as a certified USPAP instructor, be permitted to attend the “Level 1” training. It is imperative to consider the contributions of the investigative process as well as the hearing process and assist in training a candidate to act more effectively in both roles. Board Member Wilson proposed a motion that Danny Stoeber attends the “Level 1” investigator training if permitted by the Appraisal Foundation.

Vice Chairman Moore seconded the motion. With no further discussion the motion carried with Moore, Wilson, Barkley, Hartman, and Mitchell voting aye.

GENERAL PUBLIC COMMENTS

Chair Mitchell asked for any public comments. With no further comments, the Chair proceeded to education.

Board took a break at 10:46 a.m.

Board meeting reconvened at 11:02 a.m.

EDUCATION

Board Member Wilson moved to approve the following continuing education seminars and respective instructors as listed:

Continuing Education New:

1. IRWA, Nebraska Chapter:
 - A. “Principles of Real Estate Appraisal” / 14 hours /C0002
Instructor: Joel Walker
2. McKissock, Warren, PA:
 - A. “Appraising and Analyzing Shopping Centers for Mortgage Underwriting / ONLINE / 7 hours / C21039-I
Instructor: Bruce Coin
3. The Appraisal Institute, Chicago, IL:
 - A. “Advanced Spreadsheet Modeling for Valuation Applications” / 14 hrs. / C21032
Instructors: Jim Amorin
4. NBI, Inc., Altoona, WI:
 - A. “Real Estate Law: Advanced Issues & Answers” / 6 hours / C21033
Instructors: Tom Ostdiek, Esq.
Trev E. Peterson, Esq.
David C. Levy, Esq.
5. Mid-West Appraisers Association, Kearney, NE:
 - A. “The Professional Appraiser” / 4 hours / C21033
Instructors: Lynne Heiden & Danny Stoeber
 - B. “Nebraska General Appraiser Report Writing Update” / 7 hours / C21035
Instructors: Lynne Heiden & Danny Stoeber

Vice Chairman Moore seconded the motion. With no further discussion the motion carried with Wilson, Barkley, Hartman, Moore, and Mitchell voting aye.

Director Policky requested approval to reimburse Board Member Barkley for mileage and a meal for one day travel to attend an audit of education and classroom presentation by Trans-American Institute of Professional Studies. The review is done by the Department of Education. The audits are something that has been performed by the Director for all other providers of core curriculum education but Mr. Barkley is located significantly closer to Kearney. Board Member Wilson proposed approval of reimbursement of expenses for Board Member Barkley to participate in the

audit of the education provider Trans-American Institute of Professional Studies, located in Kearney. Vice Chairman Moore seconded the motion. With no further discussion the motion carried with Barkley, Hartman, Moore, Wilson, and Mitchell voting aye.

APPLICANTS & ENFORCEMENT

Vice Chair Moore moved that the Board go into executive session for the purpose of reviewing applicants for credentialing and consideration of written complaints and disciplinary action. A closed session is clearly necessary to prevent needless injury to the reputation of the individual or individuals relating to the issues of qualifying applicants and relating to the alleged violations of performance in real property appraisal practice. The time on the meeting clock was 11:02 p.m. Board Member Wilson seconded the motion. With no further discussion the motion carried with Hartman, Moore, Wilson, Barkley, and Mitchell voting aye.

Vice Chair Moore moved to come out of executive session at 12:53 p.m. Board Member Wilson seconded the motion. The motion carried with Harman, Moore, Wilson, Barkley, and Mitchell voting aye.

MOTIONS TO ACT ON CLOSED SESSION AGENDA

Chairman Mitchell opened the floor to discussion of closed session agenda items.

Vice Chair Moore moved to take the following action for a Licensed Residential moving to Nebraska:

L589 Applicant meets statutory guidelines. Approve as resident credential.

Vice Chair Moore moved to take the following action for a Certified Residential applicant:

CR377 / Select three (3) appraisal reports for a residential: <20 years; residential >20 years and a 2-4 family for Standard 3 Report. Approve to submit for examination.

Board Member Wilson seconded the motion. Motion carried with Moore, Wilson, Barkley, Hartman, and Mitchell voting aye.

Vice Chair Moore moved to take the following enforcement actions:

- 06-22 Case remains open but not active. Appraiser has not renewed credential for 2010. Deadline for renewal was June 30th.
- 08-04 Case remains open but not active. Appraiser has not renewed credential for 2010. Deadline for renewal was June 30th.
- 09-26 Legal counsel counter. Reoffer original Consent Agreement and thank legal.
- 10-03 Hold. Chairman sign Consent Agreement. Agreement 2-day USPAP & General Report Writing & Case Studies.
- 10-05B Hold. Chairman sign Consent Agreement. Agreement 2-day USPAP & Residential Report Writing & Case Studies. Due by 11.30.2010.
- 10-07A Hold. Consent Agreement 2-day USPAP & Residential Report Writing & Case Studies. Due by 12.31.2010.
- 10-07B Hold. Consent Agreement 2-day USPAP & Residential Report Writing & Case Studies. Due by 12.31.2010.
- 10-08 Proceed to formal. Send Complaint and forward case to legal. Offer contract to Hearing Officer.
- 10-10A Case remains open but not active. Appraiser has not renewed credential for 2010. Deadline for renewal was June 30th. Forward information to AG office.

- 10-10B Case remains open but not active. Appraiser has not renewed credential for 2010. Deadline for renewal was June 30th. Forward information to AG office.
- 10-11A Case remains open but not active. Appraiser has not renewed credential for 2010. Deadline for renewal was June 30th. Forward information to AG office.
- 10-11B Case remains open but not active. Appraiser has not renewed credential for 2010. Deadline for renewal was June 30th. Forward information to AG office.
- 10-13 Informal Conference 9:00 a.m. 8/19/2010.
- 10-14 Report meets minimum USPAP. Close.
- 10-15 Request true copy of report and workfile. Send for Standard 3 Compliance Report.
- 10-16 Request true copy of report and workfile. Send for Standard 3 Compliance Report.
- 10-17 Request true copy of report and workfile. Send for Standard 3 Compliance Report.
- 10-18 Request true copy of report and workfile. Send for Standard 3 Compliance Report.

Board Member Wilson seconded the Motion. With no further discussion the motion carried with Wilson, Barkley, Hartman, Moore, and Mitchell voting aye.

Vice Chair Moore moved to take the following enforcement action:

09-07 Hold. Formal / Hearing. Respondent has 30 days respond Hearing Officer recommendations.

09-09 Hold. Formal / Hearing. Respondent has 30 days respond Hearing Officer recommendations.

09-25 Hold until Case #09-07 & #09-09 are completed.

Board Member Barkley seconded the motion. The motion carried with Barkley, Hartman, Moore, and Mitchell voting aye. Board Member Wilson abstained.

Vice Chair Moore moved to take the following enforcement action:

08-11 Case remains open but not active. Appraiser has not renewed credential for 2010. Deadline for renewal was June 30th.

10-12 Informal Conference 9:00 a.m. 8/19/2010.

Board Member Wilson seconded the motion. The motion carried with Hartman, Moore, Wilson, and Mitchell voting aye. Board Member Barkley abstained.

Tentative meeting dates were approved as follows: August 19, 2010 / 1Y
September 16, 2010 / 1Y
October 21, 2010 / 1Y

ADJOURNMENT

Board Member Wilson moved to adjourn the meeting. Board Member Barkley seconded the motion. Motion carried unanimously.

At 1:00 p.m. Chairman Mitchell adjourned the July 15, 2010 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Kitty Policky, Director

These minutes were available for public inspection on June 22, 2010, in compliance with Nebraska Statute §84-1413(5).